

Application Number: 10/780,976
Customer Number 25280

APR 17 2007
Docket Number 5883

REMARKS

The Pending Claims

No claims have been amended, cancelled, or added, thus claims 9-13, 15-17, and 21 are subject to continued examination.

Summary of the Office Action

The Final Office Action dated March 22, 2007, included the following rejections and objections:

1. The disclosure was objected to because the amendment filed 1/2/07 and the original claims filed on 2/18/07 introduces new matter into the disclosure.
2. Claims 9-13, 16, 17, and 21 were rejected under 35 U.S.C. 112, first paragraph, as being based on a disclosure which is not enabling.
1. Claims 9-13 and 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hubner et al. (US Application 2004/0037963) in view of Baker et al. (US Application 2005/0000028).

In response to these rejections and in view of the above amendments, Applicants provide the following Remarks:

Discussion of the Rejections

The disclosure of the application was objected to because the Office Action states that the amendment filed 1/2/07 and the original claims filed on 2/18/07 introduced new matter into the disclosure. Applicants respectfully disagree. MPEP 608.01(I) states that, "In establishing a disclosure, applicant may rely not only on the specification and drawing as filed but also on the original claims if their content justifies it." Therefore, Applicant's respectfully believe that the phrase, "substantially isolated", which was present in the original, as filed, claims is not new matter.

Claims 9-13, 16, 17, and 21 were rejected under 35 U.S.C. 112, first paragraph, as being based on a disclosure which is not enabling. In particular, the Office Action stated that the phraseology of "substantially isolated" is not

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enabled by the disclosure. Applicants have amended the specification to include the language of claim 9, as originally filed. "Information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter" (MPEP 2163.06) The paragraph the claim was added to teaches that "it is believed that where a cationic chemical treatment is applied to one surface and an anionic chemical treatment is applied to the opposite surface, the opposite charge of the respective chemistries enables them to repel each other to an extent sufficient to retain them on their respective surfaces". Applicants respectfully believe that the original specification, while not using the exact wording "substantially isolated", does support the addition of the claim in that the respective chemistries are retained on their respective surfaces.

Claims 9-13 and 15-18 were rejected under 35 U.S.C. 103(a) as being unpatentable over Hubner et al. (US Application 2004/0037963) in view of Baker et al. (US Application 2005/0000028). Applicants respectfully traverse this rejection.

Applicants respectfully submit that Baker is non-analogous art to the present invention. In order for a reference to be analogous art, the reference must either be from the same field of endeavor, regardless of the problem addressed, or reasonably pertinent to the particular problem with which the inventor is involved. *In re Clay*, 966 F.2d 656; 23 USPQ2d 1058 (Fed. Cir. 1992). Baker is directed to depositing fabric care actives in a dry cleaning non-aqueous system. In contrast, the present invention is directed to a fabric with a first surface having a cationic chemical treatment and a second surface having an anionic chemical treatment, where the chemical treatments are substantially isolated on the surfaces to which they are applied. The Applicants respectfully submit that the issues surrounding the depositing actives in a non-aqueous based dry cleaning system is substantially different from the issues surrounding the design of fabrics with isolated treatments (one being anionic and one being cationic) on either side of the fabric. Therefore, Applicants respectfully submit

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that Baker et al. is not directed to the same field of endeavor as the claimed invention.

The problem addressed by Baker et al. is to have uniform deposition of fabric care actives in a non-aqueous based solvent system. In contrast, the problem addressed by the present invention is to create a fabric with a first surface having a cationic chemical treatment and a second surface having an anionic chemical treatment, where the chemical treatments are substantially isolated on the surfaces to which they are applied. The Applicants respectfully submit that a person trying to create isolated coatings on either side of a fabric with one being cationic and one being anionic would not reasonably look to art trying to create uniform deposition of fabric care actives from a dry cleaning non-aqueous based system.

As can be seen from the divergent fields and the different purposes of Baker et al. and the present invention, Baker et al. is non-analogous art. Therefore, the Applicants respectfully submit that Baker et al. should not be considered in an obviousness type rejection.

Even if Baker et al. could be considered analogous art, the Applicants respectfully submit that there is no teaching, suggestion, or motivation to combine Hubner et al. with Baker et al. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggest the desirability of the combination. *In re Mills*, 916 F.2d 860, 16 USPQ2d 1430, 4132 (Fed. Cir. 1990). The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Hubner et al. is directed towards a textile having hydrophobic properties on one side and hydrophilic properties on the other side. Different methods for producing the textile are disclosed, but there is no teaching or suggestion that there is a need or desire to employ a surfactant that would uniformly distribute and absorb the solvent over the fabric or that there is any teaching or suggestion that the treatments could or should be ionic in nature. In fact, if Hubner et al.

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used a surfactant of Baker et al. to have the solvent absorb over the fabric (as was stated to be the motivation to combine by the Office Action), there would be a great chance that the hydrophobic coating or hydrophilic coating would absorb across the fabric and the resultant fabric would not have one side hydrophobic and one side hydrophilic thus destroying the function of Hubner et al. Also, there is no teaching, suggestion, or motive in Baker et al. to use a surfactant or a dry cleaning non-aqueous based system for creating a fabric with a hydrophobic coating on one side and a hydrophilic coating on the second side. Additionally, there must be a reasonable expectation of success of the combination of the two references. Applicants respectfully believe that that surfactants designed to be used in non-aqueous systems would not necessarily work for aqueous based systems.

The only teaching, suggestion, or motive for such modifications comes from the Applicant's own disclosure. Only by hindsight use of the present invention is this combination suggested. It is impermissible to use the claimed invention as an instruction manual or template to piece together the teachings of the prior art so that the claimed invention is rendered obvious. *In re Fritch*, 972 F.2d 1260, 23 USPQ2d 1780, 1783-84 (Fed. Cir. 1992). For these reasons, the Applicants respectfully submit that the claimed invention is not obvious over Hubner et al. in view of Baker et al.

Additionally, all the claim limitations must be taught or suggested by the prior art as stated in MPEP § 2142. For the sake of argument, even if the Hubner et al. and the Baker et al. references were combined, Appellants respectfully submit that this standard is not met with regard to the claims as now presented. For example, neither the Hubner et al. nor the Baker et al. patents, together or singly, teach or suggest a fabric with a first surface having a cationic chemical treatment and a second surface having an anionic chemical treatment, where the chemical treatments are substantially isolated on the surfaces to which they are applied. Hubner et al. discloses paraffin, polysiloxane, and fluorine compounds for the hydrophobic treatment and hydrophilic polymers for the hydrophilic treatment. There is no teaching or motivation in Hubner et al. to use

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an ionically charged treatment. Further, there is no teaching in Baker et al. in the listing of surfactants that are ionic are hydrophilic or hydrophobic. Therefore, one skilled in the art would not arrive at the present invention from the teachings of the two references.

Conclusion

In view of the forgoing amendments and remarks, the Examiner is respectfully requested to withdraw the outstanding rejections and to pass the subject application to allowance. In the event that the Examiner believes that the claims would be allowable with minor changes, the Examiner is invited to telephone the undersigned to discuss an Examiner's Amendment.

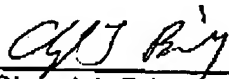
Fee Authorization: In the event that there are additional fees associated with the submission of these papers, Applicant hereby authorizes the Commissioner to withdraw those fees from our Deposit Account No. 04-0500.

Extension of Time: In the event that additional time is required to have the papers submitted herewith for the above referenced application to be considered timely, Applicant hereby petitions for any additional time required to make these papers timely and authorization is hereby granted to withdraw any additional fees necessary for this additional time from our Deposit Account No. 04-0500.

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Respectfully submitted,

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